IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 13TH SEPTEMBER 2006 / 22ND BHADRA 1928

MFA.No. 139 of 2001()

E.I.C.69/1996 of E.I.COURT, KOZHIKODE

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APPELLANTS/RESPONDENTS:

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1. THE REGIONAL DIRECTOR,
   EMPLOYEES STATE INSURANCE CORPORATION,
   THRISSUR.

2. THE RECOVERY OFFICER,
   REGIONAL OFFICE,
   EMPLOYEES STATE INSURANCE CORPORATION,
   THRISSUR.

BY ADV. SRI.TPM.IBRAHIM KHAN

RESPONDENT/APPLICANT:

M/S.K.T.C. OFFSET PRINTERS,
REGISTERED OFFICE, K.T.C.BUILDING,
Y.M.C.A.ROAD, KOZHIKODE-1,
REPRESENTED BY ITS PARTNER
P.V.GANGADHARAN.

BY ADV. SRI.T.G.RAJENDRAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 13/09/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN, J.

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M.F.A.No.139 OF 2001-C

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Dated this the 13th day of September, 2006.

JUDGMENT

This is an appeal by the ESI Corporation against the decision of the Employees' Insurance Court.

2. The establishment was treated as covered under the Employees' State Insurance Act, 1948 from 1-5-1991 provisionally. On the basis of an inspection and verification of records, the authority found that the employment strength in the establishment had reached 10 with effect from 26-10-1987 and that power is used in the manufacturing process. A final date of coverage was accordingly fixed as 26-10-1987 and contribution demanded. The contribution of Rs.27,069/- for the period from 26-10-1987 to 31-3-1991 was paid in three instalments. Thereafter, an amount of Rs.24,063/- was claimed as interest for the delayed payment of contribution. That was the subject matter of the dispute before the Employees' Insurance Court. Though

the Employees' Insurance Court noticed that the Department in the written objections claimed that the interest is from 30-7-1993, the application was disposed of by the Employees' Insurance Court holding that the liability to pay interest as per the admissible rates on the amount of Rs.27,069/- has to be worked out. Though the remittance of contribution was from 26-10-1987 to 31-3-1991, the respondents were directed to issue a work sheet to the establishment as regards the interest chargeable at admissible rates from 30-7-1993.

3. The Corporation sought review of the aforesaid order. That application was rejected on the ground that the Employees' Insurance Court does not have the power to review.

4. The contention urged in this appeal is that the liability to pay interest is a statutory one and arises on default and not on demand. So much so, according to the ESI Corporation, the Employees' Insurance Court acted contrary to law in fixing 30-7-

1993 as the date from which alone interest is leviable.

5. Having heard counsel for parties on the said question which is the substantial question of law, I am of the considered view that the statutory provisions in the Act as regards liability to pay interest run by themselves and do not depend upon any demand for interest. The ESI Corporation cannot be tied down to any particular date which it would mention in the written statement. This is apparent from the facts of this case because, the contribution that was due was from 26-10-1987 to 31-3-1991 and the said amounts were paid only in three instalments, that too, from some time in 1996.

6. For the aforesaid reasons, the impugned order to the extent it holds that interest is payable only from 30-7-1993 is set aside and it is directed that following the declaration in the penultimate paragraph of the impugned order, the concerned authority in the Corporation will issue a work sheet setting out the details as to the admissible interest on the amounts in

terms of law for the contribution that was payable from 26-10-1987 to 31-3-1991. The interest will have to be collected as it runs in terms of the statute and not confined to run 30-7-1993.

The appeal is allowed to the above extent. No costs.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

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M.F.A.No.139 OF 2001-C

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JUDGMENT

Dated: 13th September, 2006.